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MARRIAGE

WITH

A DECEASED WIFE'S SISTER.

AN ADDRESS.

By LORD FORBES.

MARRIAGE

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A DECEASED WIFE'S SISTER.

AN ADDRESS

DELIVERED AT A MEETING OF SCOTTISH CHURCHMEN IN EDINBURGH, ON TUESDAY, NOVEMBER 28TH, 1882.

BY LORD FORBES.

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MARRIAGE WITH A DECEASED WIFE'S SISTER.

HAVING been occupied, as so many of us were, in our recent meetings of our Representative Church Council in October at Glasgow, in discussing the purely local affairs of our own Church in their financial and semi-ecclesiastical aspects and prospects, it is, I think, of great advantage to ourselves, as Churchmen, that is, as members of the Catholic Church of Christ at large, to take the opportunity which is afforded us, of turning from ourselves to the consideration of a question of the deepest ecclesiastical importance to the whole Church, and as regards Great Britain in particular, one of the gravest concern; and therefore of the deepest importance not only to individuals but to us all in the aggregate—in our corporate capacity, in our imperial and national condition. The opportunity which I allude to is contained in the certainty that the question on which I am to address you this evening, namely, "Marriage with a Deceased Wife's Sister," is certain, as matters at present stand, to be again brought before Parliament; and therefore it behoves all who are opposed to that measure becoming law, to exert themselves to the utmost, before Parliament again meets, to counteract the influence which will be brought to bear in favour of that measure; and there is no saying what counter-influence, meetings and petitions against any change in the marriage law, might not have, both in giving better information on the subject as showing that it would infringe the Law of God, and in showing also the probable direful effects in a social point of view that would result: further, it is quite possible that the energies of our opponents might be relaxed, and so our own task would

become the easier. We all know that powerful influence has been brought to bear upon this question in favour of it, and as far as any of us know, this powerful influence may again be exerted in the same direction, unless, indeed, it be the will of God to overrule the hearts and minds of such supporters; and we indeed may pray that such may be the case if it be His will, or we may at least lift up our hearts to God in prayer for our Church and nation, for "our Sovereign and her dominions, that all things may be so ordered and settled, upon the best and surest foundations, that peace and happiness, truth and justice, religion and piety, may be established among us".

It is my purpose in this Address to confine myself to the arguments and reasons against "marriage with a deceased wife's sister" becoming the law of this country, or at least only incidentally to allude to any points that may be urged in favour of it, by way, it may be, of refuting them. It is not that I wish to deprive myself of the opportunity of hearing or listening to any solid and good arguments (if indeed there are any such) on the opposite side to that which I am taking, but one side of the question is enough, and more than enough, for me to address you upon on this occasion. All I would ask of all who speak on this subject, whichever side they may espouse, is that they would do so with the deepest seriousness and consideration, with care and forethought—on a subject which I venture to think is one of very great ecclesiastical and national moment and concern. For my own part, my mind is fully made up to side with the opponents of this measure, and I hope I shall be able to vindicate my position in doing so, by reference (1) to the Law of Moses, that is, to the Levitical precepts taken as part of the moral law, binding on Jews and Gentiles; (2) to the attitude of the Christian Church as regards this question down to the present time; and (3) to the importance of not relaxing the law as it now stands in regard to the best interests of our social life. I have a good deal of literature on this subject, both in favour of and against this measure, and if it had not been the case that I had at my hand the thoughts and views of so many others, I should probably not have thought of writing upon this matter, and not have ventured to

put myself before you in so prominent a manner. And if the fact that I am going to rely on the thoughts and views of others in now addressing you, and indeed to put their words on this paper, will prepare you for thinking (for I suppose it is undeniable that a string of quotations is somewhat wearisome) that tedium and weariness will be your only reward for any trouble you may have taken in coming here this evening, I will ask you to reflect on the extreme value of the opinion of those from whose writings I am going to quote. I shall refer, amongst other publications, to the Bishop of Lincoln's (Wordsworth) commentary on the Bible in his notes on Leviticus: to articles or reviews in the *Ecclesiastic*, a valuable serial which came out between the years 1846 and 1868, and is made up into 30 volumes: to "A Tract for all English Churchmen and Churchwomen," "against profane dealing with Holy Matrimony in regard of a man and his wife's sister," by him who bore the honoured name of John Keble, 3rd ed., 1849: and last, but not least, to that doctor and great theologian, Dr. Pusey, of whom the Church has been so recently deprived, and whose theological knowledge and fitness to write upon the Hebrew Scriptures none will deny. Dr. Pusey's writings which I purpose quoting are two in number, which I shall refer to as (1) and (2) in the future pages of this Address: (1) "God's prohibition of the marriage with a deceased wife's sister (Lev. xviii. 6) not to be set aside by an inference from a restriction of polygamy among the Jews (Lev. xviii. 18)," 1860; (2) "Marriage with a deceased wife's sister prohibited by Holy Scripture, as understood by the Church for 1500 years," Evidence given before Her Majesty's Commissioners, with a Preface by Dr. Pusey, 1849. A writer in the *Ecclesiastic* in 1848 (Vol. VI., pp. 145, 146) says: "If we could be brought to consider this kind of marriage as in no way opposed to the Divine Law, and the universal consent of the Church, we should be found amongst the advocates for the repeal of the civil enactment which prohibits it. But such is not our opinion. We hold marriage with a wife's sister to be (1) contrary to the plain words of Scripture fairly and legitimately interpreted; (2) contrary to the universal judgment and common consent of the Church catholic; (3) contrary to the

mystical union of Christian marriage, and destructive of its indivisibility; (4) injurious to the welfare of society, and the stability of the social life; (5) fatal to the tenderest ties of relationship; (6) a further downward step towards confusion and incest, and legalised cohabitation; (7) certain to breed discords and jealousies in private families; and (8) sure to bring down in the end the wrath and displeasure of God. For these reasons we are opposed to such alliances, and most earnestly trust that they may never be sanctioned by the laws of England." He goes on to say: "Private interest may make many regard the alliance with favour, while others, most conscientiously, may have arrived at a different conclusion from our own; but the general feeling we believe to be against the marriage. Some put forward one objection, some another: some consider it to be contrary to Scripture, some to be injurious to society, or inexpedient, or likely to be attended with unpleasant consequences; but the vast majority, we apprehend, have a strong presentiment, whether defined or not, that there is a certain degree of moral impropriety in contracting marriage with a wife's sister." Now without going into the many reasons given just above, I shall content myself with the three chief grounds or reasons which I have previously alluded to, as the reasons I shall adduce in this Address for disapproving of such marriages: (1) that such marriages are contrary to the Law of God; (2) that they are not approved of or sanctioned by the Church; and (3) that they would be most detrimental to the best interests of our social life. I am aware that if the first of these points were conclusively proved to the satisfaction of any honest enquirer, or even if there were a strong and reasonable probability that such marriages were contrary to the Divine Will, it would be his duty to adopt such a view of the question as to the consequent unlawfulness of contracting such marriages, as would render it unnecessary to pursue the train of enquiry into the two other divisions just mentioned; but different minds may be more readily influenced or convinced by different arguments, and it therefore becomes necessary and allowable to pursue the investigation beyond the immediate pages of the Bible. It is, moreover, to be feared that self-interest has much

to do with the agitation on this subject, and the desire for the relaxation of the existing marriage laws. It must also be observed with great regret that there is another source from whence this restlessness and desire of change may proceed, namely this: persons transgress the law, and then seek to have the law altered to meet their particular case; surely to give way to such an argument would be the adoption of a most pernicious principle. And once more, perhaps the most fruitful source of all this agitation is to be found in the adoption of these marriages in our colonies; but surely the mother country has not fallen so low as to be obliged to take lessons in morality or the contrary from her colonies, and to learn from them the conveniences or inconveniences, in a social point of view, which would be attached to such marriages. It were much to be wished that this matter were once for all set at rest by the legislature of this country refusing to give the class of persons to whom I have just alluded any and all hopes of success in their restless agitation and desires to get the marriage laws altered to suit their own personal convenience; and surely this might not be unreasonably asked if the threefold arguments against such marriages were found to be conclusive, which I have already mentioned, and which I now proceed briefly to discuss in their order, beginning *first* with the following proposition:

That Marriage with a Deceased Wife's Sister is Contrary to the Law of God.

In considering this point I shall not dwell long upon the disputed meaning of Lev. xviii. 18: "Neither shalt thou take a wife to her sister, to vex *her*, to uncover her nakedness, beside the other in her life *time*". On this point, and also regarding the marriages, mentioned in this chapter, both of blood relations and also of those related by marriage, I shall quote at some length from Bishop Wordsworth's commentary on the book of Leviticus. He says: "The original words of this sentence are thus to be rendered literally, in the order in which they stand in the text, 'And a wife to her sister thou shalt not take, to

vex, to uncover her nakedness upon her in her lifetime'. Such a conjunction had been seen in the house of their forefather Jacob, and might seem to be recommended to the Israelites by his example; and therefore the Legislator may have deemed it necessary to provide specially against it (St. Augustine). It has been inferred by some, that the Legislator by *prohibiting* a man from bringing in a wife to her sister in her lifetime, *allows* him to marry his wife's sister *after his wife's death.* But this deduction is not well grounded; and no one ought to act upon an inference which rests on so precarious a foundation. Because a man *may not* take his wife's sister to wife while his wife is alive, it by no means follows that he may take his wife's sister to wife when his wife is dead. As *Richard Hooker* well says, 'It is a mistake to suppose that a thing *denied* with special circumstance doth import an *opposite affirmation* when once that circumstance is expired' (Hooker V., xlv. 2)." It is as well to refer here to the marginal rendering of this passage in Leviticus, which is, instead of 'a wife to her sister,' 'one wife to another,' which contains a simple prohibition of polygamy. And this is the view taken by the learned Dr. Henry Hammond, Archdeacon of Chichester and Canon of Christ Church, who had been selected for the Bishopric of Worcester, but did not live to reach his consecration, for he died at the house of Sir John Pakington, April 25th, 1660. On this point the *Ecclesiastic* says (Vol. VII., p. 185): "Dr. Hammond grounds his argument against marriage with the wife's sister upon the law of propinquity, and upon the rule *a pari*, which we should hardly have thought it possible that any thinking person could have called into question. Accordingly he does not build any of his conclusions upon the text so much disputed in this controversy, Lev. xviii. 18: 'Neither shalt thou take a wife to her sister to vex her, to uncover her nakedness, beside the other in her lifetime'. By reasoning which, to our mind, has long since been conclusive, Hammond shows that this passage does not relate to marriage with a wife's sister, but contains a simple prohibition of polygamy." Dr. Hammond thinks that the prohibition of marriage with the sister of a deceased wife follows, by parity of reason, from the prohibition of marriage with a

brother's wife; "this of the wife's sister which is not named, being directly the same degree of propinquity, that the brother's wife, which is named and prohibited". And he goes on to say, "And accordingly the Scripturarian Jews, as well as the rest, do here resolve that a man is forbidden to marry two which are akin to one another, and specify in a woman and her sister". (*Eccles.*, Vol. VII., p. 185). The work of Dr. Hammond's here referred to (p. 12) is entitled "A Resolution to the proposed Quœre of Marrying the Wife's Sister," by the learned and pious Henry Hammond, D.D., being a reprint from Vol. I. of his works, by a member of the University (Mr. Foulkes of Jesus Coll.) (Parker, Oxford, 1849). Bishop Wordsworth says: "One thing is clear, that no inference can be derived from this verse, *taken by itself*, as to the *lawfulness of marrying* a deceased wife's sister. And when we come to examine the code, taken *as a whole*, it is no less clear, by logical and necessary inference from the code so taken, that such *marriages* are *unlawful*". On this verse 18, which we have been considering, Dr. Pusey says)I., p. 33): "It has the character of a very emphatic prohibition. It is divided, alike by the structure of the words and by the Hebrew colon (so to call it), into two halves. 'A wife to her sister thou shalt not take: to vex, ad retegendam nuditatem jeus; beside her; so long as she liveth'. The first half is the absolute prohibition: the second consists of supplementary clauses. Certainly, so absolute and peremptory a prohibition of this special sort of polygamy, a polygamy which might come recommended to the Jews as having been used by their father Jacob, is an oddly chosen text on which to build the presumption to marry the second sister at all. The order of the words seems purposely inverted for emphasis: but that inversion makes the first clause the more complete in itself, 'A wife to her sister thou shalt not take'. But further, the person spoken of in the last clause, 'so long as she liveth,' may be either sister. The sister who is the object of the prohibition is the second sister; she also is the sister spoken of in the clause to 'uncover her nakedness': in the next clause only does the 'her refer to the first sister. In the last clause, then, it is just as natural to take the words 'so long as she liveth' of the first

sister, who was the sister spoken of in the main clause of the sentence, and had been spoken of in a clause just preceding, as of the second sister who is spoken of subordinately in the last only. In this case, according to a well-known idiom, 'I will praise my God so long as I live,' the words would be the most emphatic prohibition ever to take her."

But turning from the consideration of verse 18, we come now to the consideration of that which may well be considered the key of the whole position, and that on which I would desire to build my proposition, that marriage with a deceased wife's sister is contrary to the Law of God, namely, the full meaning of Lev. xviii. 6: "None of you shall approach to any that is near of kin to him, to uncover his nakedness: I am the Lord"; or giving the first part of this verse literally according to Bishop Wordsworth, it would read: "Man, man, you shall not approach to any flesh of his flesh". And continuing Dr. Pusey's remarks from where I left off just above, he goes on to say: "I do not rest the argument upon this, for I believe that the real and sufficient ground which makes these marriages illegal is, that they are directly prohibited by God's Law, Lev. xviii. 6, in its natural sense, in the only sense in which it is in harmony with the rest of the chapter: that moreover, the Apostles in the decree of Jerusalem rejected them; and that having been rejected by them then, the Church has ever since rejected them, as contrary to the Law of God. But at least it cannot be said, that the weight of authority which has been of late produced against the interpretation which would make Lev. xviii. 18 a prohibition of polygamy generally, lies against this natural construction of the words." And, p. 32, he says: "Christians should be careful how, in the face of an emphatic prohibition, they justify themselves in contravening the obvious meaning of that prohibition, by aid of a (if so it seem to them) plausible inference from a limited prohibition, and that whole prohibition done away in Christ. The principle in common to both cases is this, that a positive prohibition of God once given, is not evacuated by a restricted prohibition on a kindred subject." I have now to show that the marriages of those near of kin were forbidden to Gentiles as well as to Jews, that is, that the pro-

hibition of these marriages constituted part of the *moral law* of God: and that the prohibition was not confined to blood relations, but was extended to those nearly related by marriage, founded on the principle from the time of our first parents, that "the man and his wife are one flesh," and consequently his wife's relations are his, and conversely the husband's relations are hers; "and this makes affinity, or relation by marriage, as strong as—nay, in some respects, stronger—than consanguinity or relation by blood; since a man is to leave his father and mother, his nearest blood relations, and to cleave unto his wife, because they are one flesh; and if they *are one* flesh,—and it is God's truth which declares them so—then from that intimate union, that identity we may rather call it, between a man and his wife, whoever is near of kin to the one is necessarily near of kin to the other" (from sermon by Honble. and Rev. R. Liddell, preached at St. Paul's and St. Barnabas', London, the first Sunday in Lent, 1858). "For what can be 'nearer' to a man than his own wife, or rather, than his own flesh? For 'they are no more twain, but one flesh'. So that by means of the wife, the sister also passes into the kindred of the husband" (Dr. Pusey, quoting St. Basil, I., p. 30). And further, we must believe that what is forbidden to the man is also forbidden to the woman as regards the same degree of relationship. On these points I shall quote the tract by John Keble mentioned already. He says, pp. 13—17: "In Leviticus, chap. 18, certain marriages are forbidden, as specially offensive to God. Some people say that the prohibition belongs to the civil law only of the ancient Jews, and that, so far as it is concerned, persons of other nations may contract such marriages without sinning. But this must be a mistake, for it appears from the end of the chapter (Lev. xviii. 24—30) that such marriages were among the crimes which drew down God's heavy anger upon the Canaanites. 'Defile not ye yourselves in any of these things, for in all these the nations are defiled which I cast out before you: and the land is defiled: therefore I do visit the iniquity thereof upon it, and the land vomiteth out her inhabitants. Ye shall therefore keep my statutes and my judgments, and shall not commit any of these abominations; *neither* any of your own

nation, nor any stranger that sojourneth among you: (for all these abominations have the men of the land done which *were* before you, and the land is defiled:) that the land spue not you out also, when ye defile it, as it spued out the nations that were before you. For whosoever shall commit any of these abominations, even the souls that commit them shall be cut off from among their people. Therefore shall ye keep mine ordinance that ye commit not any one of these abominable customs, which were committed before you, and that ye defile not yourselves therein: I am the Lord your God.'" Keble then goes on to say: "Clearly, if the Canaanites, who had never heard of Moses and his law, were offending God so grievously by doing these things, the offence cannot be against the Levitical law only. If I may without presumption, I would earnestly intreat all serious persons, clergy and laity, who for whatever reason have been induced to take part in this movement:—I would earnestly intreat them well to consider this:—lest they find by and by that they have been instrumental in bringing the curse of Canaan on themselves, on our Church and country, while they thought they were only pleading for Christian liberty, and doing away with the remnant of an obsolete foreign code. Now, what are the customs which were so abominable in the old inhabitants of God's Holy Land, and caused the land itself to vomit them out? (the customs, I mean, in respect of marriage: for of the other horrors mentioned in this chapter we are not now compelled to speak.) They are all forbidden in one general principle: 'None of you shall approach to any that is near of kin to him, to uncover their nakedness: I am the Lord'. This being laid down in the 6th verse, the following verses allege so many instances, whereby God's people might understand what 'near of kin' means. And it is remarkable, that in this enunciation the law makes no distinction between those who are akin by marriage and those who are akin by blood, but mentions them indiscriminately, as if the one sort were precluded from marrying under the same penalties as the other. For these are the degrees expressly forbidden in their order. First, a man is forbidden to marry his mother in v. 7. Next, a father's wife, or step-mother, in v. 8; which is the case mentioned in

1 Cor., v. 1. Next, a sister, v. 9. Next, a granddaughter, v. 10. Next, a half-sister, v. 11. Next, an aunt by the father's side, v. 12. Next, an aunt by the mother's side, v. 13. Next, an aunt by marriage with an uncle, v. 14. Next, a son's wife, v. 15. Next, a brother's wife, v. 16. Next, a wife's daughter, mother, or granddaughter, v. 17. Here are thirteen cases in all: six of kindred by blood, and seven of kindred by marriage: and neither by the order in which they follow one another, nor by any difference of expression regarding them, is any hint given that the one sort of profanation is less heinous in God's sight than the other. The world may have come to think there is a difference, because the world will not believe that man and wife are really one flesh. But the written Law of God apparently deals with both alike. The next remark," Keble goes on to say, "I have to make on this, which is God's own table of prohibited marriages, is one which it seems to me no fair mind can deny. Indeed, one is half-ashamed to enounce it, it is so obvious; yet the reasoning on the other side appears to be mainly based on the denial of it. It is simply this: that nearness of kin not being affected by sex, what is forbidden to a man is forbidden to a woman in the same degree of kindred or affinity, though it be not set down in words. For instance, in v. 7, a man is forbidden to marry his mother: then by the same rule, a woman is forbidden to marry her father, though the prohibition is not expressed. Surely it would be fearful paltering with God's law not to accept and obey such a plain rule as this. And it is to be observed, that these canons are all addressed to men only: the woman's duty and the woman's sin are left to be inferred in each case: but what should we think of the woman who should therefore account herself left at liberty, so far as the Levitical Laws are concerned?" What Dr. Pusey says (II., p. 4) regarding some marriages being expressly forbidden and others omitted, may very well apply here: "It would be a very Pharisaic interpretation of Holy Scripture which would so insist upon the letter, as to conceive everything, not in so many words forbidden in the letter, to be permitted, although equivalent to that which is forbidden. It is a sort of interpretation professedly borrowed from the Jews,

and resting upon their authority, yet more like the argument of a Jew with which most minds are familiar, 'It is not in the bond,' than that of teachable minds wishing to know the mind of God." Bishop Wordsworth also goes through, in his notes on this chapter of Leviticus, the list of the thirteen degrees of relationship, six by blood, and seven of persons made relations by marriage only, between whom marriage was forbidden, and also points out that, "It is clear from this list, that the *death* of the person, through whose marriage the nearness of kin began, does not *alter that nearness*". He goes on to say: "It has indeed been said that we have no right to deduce any prohibition *inferentially* from this code, but ought to be content with the prohibitions that are *expressed*. This allegation is refuted by the fact that it is nowhere *expressed* in the code that a man may not marry his own *daughter* or his own *sister*. Let us also observe that a man may not marry his *brother's widow;* or in other words, a woman is forbidden to marry her *deceased husband's brother*. This prohibition is repeated twice in Holy Scripture (Lev. xviii. 16; xx. 21) with a special malediction. And the *reason* stated for this prohibition is, that the *wife* of a brother is one *flesh* with him." "It was the deliberate judgment of the Church (Dr. Pusey, II., p. 4), and expressed by thoughtful writers, that Lev. xviii. is part of the moral law, and unchangeable, and that the words 'Thou shalt not approach any one near of kin,' &c., do furnish a general principle, including cases not actually expressed in the letter of Leviticus. One case, at least, not so expressed, *must* be included, since marriage with the daughter is not prohibited, while marriage with the mother is. Even the better heathen detested the incest with the mother. Yet God saw good to lay down the one and omit the other. And it is as reasonable an account as any other, of this omission, to suppose that He willed that it should be omitted, in order that we might not think that the whole range of forbidden relations was contained in those which are expressly and in the letter laid down." "It is evident," says Bishop Wordsworth, "that the Legislator did not intend to set down in explicit terms in this Levitical Code all the degrees within which marriage is unlawful. He had not even expressly

forbidden a man to marry his own daughter or his own sister. But His design was, that men should use their reason in drawing logical inferences from the principles laid down in the Code. This is our *moral probation.*" "In the New Testament (1 Cor., v. 1) a man may not marry his father's wife, because she is *one flesh* with his father: so he may not marry his wife's sister, because his wife is one flesh with him. But here it may be alleged by some, that since in a certain case Almighty God *commanded* that a wife should be joined in marriage to a deceased husband's brother; namely, in case that her husband had died without issue (Deut. xxv. 5-10); and since God cannot be supposed to command anything *immoral*, therefore the marriage of a wife with a deceased husband's brother cannot be sinful; and that therefore, by parity of reasoning, the marriage of a man with his deceased wife's sister cannot be immoral. Is then God inconsistent with Himself? In His Word He has forbidden a woman to marry her husband's brother. In a *special* case, for a *special reason*, applicable only to the Jews, God was pleased to *dispense* with His own Law; and in the plenitude of His Omnipotence, to change the prohibition into a command. . . . But it would be presumptuous to say that *we* may dispense with God's law concerning marriage, because *He* in *one case* dispensed with it." "That the Jews were permitted in a certain instance, and for a certain end, to marry the brother's wife, does not abrogate or impair the general law, which in all other instances, and to all other people, declared alliance with the brother's wife to be incestuous" (*Eccles.*, Vol. VII., p. 184). This law "was special and peculiar; a temporary dispensation appointed by the Supreme Lawgiver in a particular case, which did not weaken, but confirm the general law, in cases not excepted" (see Dr. W. Berriman's correspondence, quoted below). Such marriage, Dr. Pusey says (I., p. 30), "is nowhere forbidden now, except under this general rule, 'None of you shall approach unto the whole flesh of his flesh'. As a law for a passing state of things, God enjoined for a time the re-marriage of the childless widow with her brother-in-law. That law being done away, the original prohibition stands in its full unmitigated force."

Before concluding this part of my subject, I wish to draw

your attention to a very remarkable statement regarding the Mahometan law on this subject. It is contained in a sermon, entitled "Marriage with Two Sisters contrary to the Holy Law of God and Nature," preached in Canterbury Cathedral on Tuesday, May 7, 1850, by the Rev. Charles Forster, B.D.; and it is in that division of his sermon where he is replying to the charge "that this particular restriction is without sanction from the law of nature, or the natural sense of mankind". He says (pp. 24, 25): "The law of Mahomet differs as widely from the law of Christ as a carnal can differ from a spiritual law. It goes beyond the liberty of the Mosaic law: for it enacts polygamy, and gives lawless licence of divorce. Yet this licentious creed has too its table of prohibited degrees of marriage; a table certainly not taken from the table of Leviticus, as its variations most clearly prove. As Mahomet assuredly did not introduce into the Koran *restraints* borrowed from the pure morality of the Law or Gospel, it is clear that he took them where he found them, from the traditional law and custom of the Arabs; a law and custom, all must acknowledge, originating with the Patriarchs. Now, it is most remarkable that the Mahometan table of prohibited degrees, recited in the 4th chapter of the Koran, entitled 'Women,' is either literally or virtually identical with the table in the 18th chapter of Leviticus, and that it closes with a prohibition, in the most solemn terms, of the very marriage now in question. 'It is forbidden—or it is wickedness—for a man to unite himself with two sisters'. After this, who will be bold enough to affirm that marriage with the sister of a deceased wife is not contrary to the law of nature? that the law of nature and the primitive usage and custom of mankind do not unite in interpreting the law of God in this matter, as laid down in Leviticus, as the Church universal and the Church of England have done? What Christian state can venture to let down the pure morality of the Gospel below even the lax and licentious morality of Mahomet and the Koran? Yet is this the guilty consummation at which a British Legislature must arrive, before it *can* become lawful in this Christian land for a man to marry the sister of his deceased wife. May our statesmen, then," Mr. Forster concludes his sermon, "no less than

our churchmen, be preserved from thus sinning against the holy law of God and nature. Let our statesmen, as well as our churchmen, consider well the awful words of our Saviour in the text: 'Think not that I am come to destroy the law and the prophets; I am not come to destroy but to confirm. For verily I say unto you, till heaven and earth pass, one jot or one tittle shall in no wise pass from the law, till all be fulfilled. Whosoever therefore shall break one of these least commandments, and shall teach men so, he shall be called the least in the kingdom of heaven; but whosoever shall do and teach them, the same shall be called great in the kingdom of heaven' (St. Matt. v. 17-19)." An appendix to this sermon gives the correspondence of Dr. William Berriman, "one of the most judicious, learned and pious clergymen of the Church of England in the last century". In one of his letters (in 1734) he says, in answer to a person who asked his opinion on the subject of these marriages, "You will allow me, I suppose, that the prohibitions in Leviticus are part of the moral law, obliging all nations: since the neglect of them is charged among the abominations of these nations that were cast out before the Israelites". He then gives two rules to be observed: 1. "That as the man and wife are become one flesh by marriage, whatever degree of consanguinity makes it unlawful for him to marry with his own relations, the same degree of affinity makes it unlawful for him to marry with his wife's relations." 2. "That whatever is forbidden to one sex is in the same degree unlawful to the other sex: so that if a woman is not allowed to marry two brothers, neither may a man marry two sisters. But that a woman cannot marry two brothers,—or, which is the same thing, that a man may not marry his brother's wife,—is plain from Levit. xviii. 16." Let us in concluding this portion of the subject, stamp on our minds and endeavour to impress on all around us, the one great barrier against marriage with a deceased wife's sister, the one general prohibition, in Lev. xviii. 6, "None of you shall approach to any that is near of kin to him". Nearness of kin is what is commanded to be avoided in contracting marriages. "Since the word, 'near of kin,'" Dr. Pusey says (I., p. 13) "(as is plain from the instances given in Leviticus xviii.), includes

those who are 'near of kin' through the wife, not by blood, then it is equally plain that it includes the wife's sister. 'Near of kin' includes, it is plain, the wife's near relations. For, in God's word, it includes her mother, or her daughter. Then it includes the sister too, unless any will contend that the sister is not her sister's near relation. The argument which enforces the prohibition of marriage of the wife's sister by parity of reasoning from the prohibition of the marriage with the brother's widow is, I doubt not, valid, but it is not needed. For it appears from Holy Scripture itself, that the *near* relations of the wife are included in the general prohibition, 'None of you shall approach,' &c., and this being so, human reason of itself confesses that the wife's sister is *near*;"—and I therefore maintain the proposition with which I started, and trust I have shown, that 'marriage with a deceased wife's sister *is* contrary to the Law of God'. My second proposition is:

THAT IT IS NOT APPROVED OF OR SANCTIONED BY THE CHURCH.

I have been so lengthy in the first part of my subject, that this and the remaining proposition must necessarily be considered in an abbreviated form; but the leading ideas to be borne in mind can well be pointed out, while brevity is preserved. Again we must bear in mind the wide extent to which the marriage laws extended, including Jews and Gentiles, and therefore binding now in Christian days, only with a more binding force, as "The Christian Church is stricter than Paganism, and the Christian doctrine more severe and pure". (*Eccl.* Vol. VII., p. 189). "If the prohibition in Leviticus were given to the Jews alone, it manifestly could not extend to us Christians. But this was not the case. The marriage prohibited is only one out of a large class of unlawful connections with which the nations of the Gentile world had fearfully defiled themselves. Now marriage with a deceased wife's sister is an analagous case to marriage with a deceased father's wife. Both are close degrees of affinity, not of consanguinity; both were not so much as named among the Gentiles, *i.e.*, were considered in the highest degree unnatural and odious connections. A learned Arabic writer says, "The

foulest thing that the old Arabs did in time of ignorance was this, that a man married two sisters". The very Gentiles, then, regarded this marriage as execrable. In 1 Cor. v. 1, St. Paul, in condemning the marriage he there names, calls it by the very name of the sin (*πορνεία*) from which the Gentiles were commanded by the Apostles at the Synod of Jerusalem to refrain, while they were exempted from observing the Mosaic law. (See *Eccl.* Vol. VII., pp. 188, 189.) And Dr. Pusey says to the same effect (1 p. 19). "St. Paul also speaks of the incestuous marriage with the father's widow, under the same term as that used by the Apostles at Jerusalem, as *πορνεία not even known among the heathen*". Bishop Wordsworth says "Not a single iota of testimony in favour of such marriages can be cited from any Christian writer of any note for fourteen centuries after Christ. In the words of St. Basil writing in the fourth century, and speaking not only in his own name, but bearing testimony to the judgment of his predecessors on this subject, 'our custom in this matter has the force of law, because the statutes we observe have been handed down to us by holy men; and our judgment is this, that if a man has fallen into the sin of marrying two sisters, we do not regard such a union as marriage, nor do we receive the parties to communion with the Church until they are separated'." And we may just remember "that the Church of Rome does not solemnize such marriages without a *dispensation* and thus is still a witness to their illegality". "Within the Levitical degrees there is no instance whatever of any dispensation until (the Pope) Alexander VI. in 1500 gave the dispensation to Immanuel, King of Portugal; in the next generation his family was extinct." (Dr. Pusey, II., pp. lix. lxii.). In the Apostolical Canons (an ante-nicene collection) (a genuine code of Canons of the Primitive Church according to Bishop Beveridge, who was born 1638, and died Bishop of St. Asaph, 1708), it is ruled (canon 19) that one who married two sisters or his niece was for ever excluded from the clergy. (Dr. Pusey, II., p. 11) (Keble, p. 26). At the Council of Neo-Cæsarea, A.D. 315, one who married two brothers was excommunicated till death, unless in case of sickness. In a canon of the Council of Elvira (or Illibesis) A.D. 325, it was ruled "if any man after the death of

his wife have married her sister, she being also a communicant, let them be suspended from communion for five years, except there be need through sickness of a more speedy reconciliation". "Elvira is in Spain, Neo-Cæsarea in Pontus; these marriages were therefore condemned at that time from one end to the other of the Christian world." (Dr. Pusey, II., p. 12) (Keble, p. 26). "In the General Council of Chalcedon, A.D. 451, the first canon pronounces it 'fit and just that the canons of the Holy Fathers make in every Synod to this present time be in full force'; thus adopting among others the censures which had been previously enacted against marrying two sisters. St. Ambrose (born A.D. 333, Bishop of Milan 374, died 397), and St. Augustine (born A.D. 354, converted 386, Assistant Bishop of Hippo 395, died 430), distinctly recognise the Levitical degrees as binding on all Christians; not only those which are expressed, but those which are implied by parity of reasoning." (See Keble, p. 29.) "The language of St. Basil (born about A.D. 329, Bishop of Cæsarea in Cappadocia 370, died Jan. 1, 379), is exceedingly strong, for its having been an universal hereditary practice to forbid the marriage with the sister of the deceased wife. He speaks of it as being something unheard of, which people would shudder at. He speaks of 'the practice established among us having the power of a law, because these laws (using a word which means sacred laws), have been delivered down to us by holy men'. So that he speaks of it as a traditional custom before his time, and this as an exception which anybody would shudder at. His words refer to an universal sacred practice." (See Dr. Pusey's Evidence before the Commissioners, II., p. 12.) And regarding this evidence I may here mention what the *Ecclesiastic* says (Vol. VII., p. 192), "no one can be considered as having made himself master of this question who has not read Dr. Pusey's evidence; the research and learning it displays, being something that belongs rather to a past age than to our own"; and I may add he has prefixed to his evidence a valuable preface. A very important piece of evidence Dr. Pusey gives in the next page to that from which I have just quoted, when he says, "we actually know from the Roman laws (which I have investigated lately) that these marriages were allowed, and that as soon as the

empire became Christian, these marriages were prohibited by force of law". If we are surprised at the "absence of early canons on the subject," we may reflect that "there was no need of canons of the Church when there was a Divine law". (Dr. Pusey, I., p. 27.) These brief remarks which I have made, may serve to indicate the tone of the early Church on the subject of these marriages, and the mind of the reformed Anglican Church is clearly and distinctly set forth in the table of prohibited degrees "ordered to be set up in Churches by Archbishop Parker in 1563" (see Forster's sermon, p. 21), which has the imprimatur of the English canons of 1604, made by the convocation of the Province of Canterbury, and afterwards passed by the Province of York. (See Perry's History of theChurch of England, Vol. I., pp. 120-123.) Canon 99 declares "no person shall marry within the degrees prohibited by the laws of God, and expressed in a table set forth by authority in the year of our Lord 1563. And all marriages so made and contracted shall be adjudged incestuous and unlawful, and consequently shall be dissolved as void from the beginning, and the parties so married shall by course of law, be separated. And the aforesaid table shall be in every Church publicly set up and fixed at the charge of the parish." This table is headed "A table of kindred and affinity, wherein whosoever are related are forbidden in Scripture and our laws to marry together," and by this table a man is forbidden to marry 10 persons related to him by consanguinity, and 20 by affinity, among whom is "a wife's sister". If we are prepared to alter our table of prohibited degrees, "at least (says Keble, p. 32), let us distinctly understand what sort of course we are commitiing ourselves to. We cannot, I apprehend, make this or any similar change, without virtually accepting the principle, that the Gospel precepts in such matters are less strict than those of the law: although our Divine Master has distinctly and repeatedly intimated, in the kindred matter of divorce, that concessions were made to the Jews, 'because of the hardness of their hearts,' which could in no wise be allowed to us Christians: although St. Paul, in the other kindred matter of polygamy, has once for all told us the mind of Christ, saying, 'Let every man have his own wife, and let every woman have her own husband':

(1 Cor. vii., 2), and although the whole spirit and tendency of the Christian Dispensation is to require more of man in proportion, as it gives him immeasureably more grace. The truth is (Keble further says, p. 37), no thoughtful heart can regard this matter of the marriage laws, as a thing standing apart by itself. It belongs rather to a much greater and deeper movement, showing itself now nearly all over Christendom, by tokens very various, yet all most curiously tending the same way, *i.e.*, toward lawlessness, the predicted forerunner of Anti-Christ." Let us then, who may foresee the evils that would hereby come upon this land, speak out, before it is too late, and tell our Statesmen that we regard with horror the marriage of a man with his wife's sister, and all others like unto it, as prohibited by Holy Scripture, and unsanctioned by the Church of Christ. I shall not here enter into the purposes or results of the Bill introduced into Parliament by Lord Lyndhurst in the year 1835, as it has nothing to do with the proposition I have been elucidating and now maintain, that "marriage with a deceased wife's sister is not approved of, or sanctioned by the Church of Christ".

My third and last proposition is:

That it is Detrimental to the best Interests of our Social Life.

There are two considerations, which stand in the forefront in regard to this point now before us and unless they can be answered in the negative, I would boldly claim that my proposition is proved and made good, that such marriages are detrimental. (1) What are the relative numbers of those who wish to have the marriage laws altered in this matter and of those who wish them unaltered? I should suppose there is little doubt that the minority are the claimants for the alteration, and I therefore think that until the contrary could be shown to be the case, the majority who are against the alteration should not be sacrificed for the supposed convenience, or at all events the wishes, of the few. (2) Is it at all likely or to be expected that the relaxation of the marriage laws (if this point were conceded) would stop there? Would it not be likely to be the case, that this first

barrier having been broken down, other marriages most undesirable, both of consanguinity and affinity, would follow and there would be a general and almost inextricable confusion of relationships. Until this point, equally with the one just above, can be answered in the negative, I maintain that such marriages are "detrimental to the best interests of our social life". But, of course, I must not stop here. These simple propositions and considerations will not, alas! convince those who are eager for the change. I may ask, well-nigh in despair, will anything influence those, whom self-interest it may be, or family convenience is urging on to this step? Will anything deter them from pursuing it further? The law of God? The law of the Church? The law of the land? The social hardship to the probable majority? The horrible results that may be expected? Will none of these considerations move them? Let me at least picture briefly the hard lot of the deprived sister-in-law and of others too, from extracts of a pamphlet, called "The sound policy of the existing law of marriage, as prohibiting the union of a widower with his deceased wife's sister, vindicated": by George Wray, 1849. "A relaxation (p. 9) of the present law would press most heavily on orphan girls, who would be deprived of the home and shelter now afforded them by their married sister's roof. No longer would these be welcome inmates and their presence as now, a source of pleasure and happiness; suspicion would then usurp the place of confidence; every trifling act of civility or attention on the husband's part would then be productive of jealousy and distrust." "But the wife (p. 11) and her sister would not be the *only* sufferers by the proposed change in the law,—the husband would have, also, grounds for lamenting it; since the inevitable effect of the removal of the prohibition would be to deprive him of the services of his sister-in-law. Thus the removal of the restraint, it may be safely predicted, would operate to the disadvantage of all parties on whom it could produce any effect at all; husband, wife, children, and wife's sister would, one and all, experience its blighting and baneful influence. It would sow discord and misery where now reign peace and happiness." Mr. Wray further says (p. 13) "it is asserted by the opponents of the restriction, that its removal will deprive the

sister-in-law of no license or conventional privileges that she now enjoys; because even at present, she cannot, after the death of the wife, reside, without scandal, in the widower's house. Now that she *can* and *does* so reside, in innumerable instances and without the slightest reproach, is notorious". But even if it were otherwise, she may at least be a daily visitor at his house and thus be of incalculable service and utility, which Mr. Wray goes on to show she could not do if the restriction was removed, and quotes Dr. Pusey in proof of this, that in countries where marriage with a sister-in-law and niece are permitted "all domestic relations are broken up; that the uncle's house cannot be the home of the orphan niece; nor the sister-in-law take charge of her deceased sister's children" (p. 14). A very few more words from Dr. Pusey's evidence will complete my statement and arguments. He speaks of the marriages between uncles and nieces in Germany as being very general, that he had "been told so by Germans and they lament it very much": "that the state of marriage in Germany is very frightful": he speaks then regarding divorces: that he had asked a German doctor of philosophy as to the state of marriage, and he said "it makes a German cover his face with his hands for shame". He concludes his evidence with some general remarks: "that such relaxation is opening a question which, when opened, cannot be closed. The marriages now in question are but the first outworks: if they were conceded, further questions would be raised, which it would be impossible to meet on any principle. The next step is that of the uncle and niece, which (as I said) is allowed and practised commonly in the countries held up for our pattern in this. But such marriages as introduce a confusion of relations seem contrary to nature itself, as St. Ambrose observed of old. The husband's house is now so often the home of the orphan unmarried sister. 'The change would throw thousands of helpless females on the world.' In whatever degree the marriage law is relaxed, in that degree are domestic affections narrowed." Dr. Pusey then goes on to state that a change of the civil provisions as to marriage does not alter the duties of the clergy, who remain under the canons. "They could neither celebrate such marriages, nor consider persons so united, as

married in the sight of God. These are, however, ulterior, though in fact great evils, threatening the breaking up of those domestic habits, which are so great a blessing to the English nation. *The* great evil is the contradiction to the laws of God." (Dr. Pusey, II., pp. 54-57, and see Preface, p. xcii.)

And now, in conclusion, to what extent will any of the arguments I have brought forward avail? Who will be convinced by them? *Not* those, I fear, whom *self-interest* or *family convenience* are urging on in this matter, unless indeed it please God to over-rule their hearts. But at least I may challenge these, and I *do* challenge them, to show any other than these motives, as the mainspring of their advocacy for marriage with a deceased wife's sister. But they must be the minority, however exalted their station, or however powerful their influence. Are these then to cause the majority to suffer on their account, and for the desire of, it may be, but a very few, shall grievous hardships be inflicted on so many others? If I am not mistaken, it has been stated, that it was not likely that the number of these marriages would be much increased by the law being altered in their favour. If this be so, it only makes it the more selfish and cruel in those who are demanding the alteration, regardless of the many injuries they would be inflicting upon the *many* who derive protection from the law as it stands at present, and who "quiet and retiring are to be sacrificed to the clamorous". Is there then no hope of averting such an impending calamity, as would be the case, if this became the law of the land? No hope of altering the opinion of members of both Houses of Parliament, that by triumphant majorities they may reject this measure and settle the ceaseless agitation on this point for at least some considerable time? Let me appeal to those to take this line, who are supporting this measure from no personal or self-interested motives. Surely I may appeal to them to re-consider their opinions and to re-call their votes on the next occasion. *They* can have no truer and safer interest in so grave a matter as this, than to follow the better, the safer, the Scriptural, and the Christian way, the way which will preserve the sanctity of marriage, and the purity, decorum, and happiness of the households of this country in their domestic and family relationships, and

weighing well these weighty considerations, and acknowledging that on the other side there are no arguments or considerations worth even thinking of in comparison, they will, I hope, reject the proposed innovation, and declare that as far as in them lies, this measure, namely, marriage with a deceased wife's sister shall not appear on the pages of our Statute Book.

'And now what is to be done,' Dr. Pusey asks in Lent 1849, 'but in our prayers at this solemn season to beseech Him, in Whose Hand are men's hearts, to turn from our land this pollution; from our families, this first inroad into that domestic union, which, above all things, has made us "blessed in our going out, and blessed in our coming in"; from the State, the sin of declaring that to be lawful which is prohibited by God's law; and 'if the State should unhappily do this,' from our Church, all part and lot in breaking the laws of God? "Ye shall be holy unto Me; for I the Lord am Holy".'—God grant that we may try to carry out the above suggestion in the approaching Lent of 1883.

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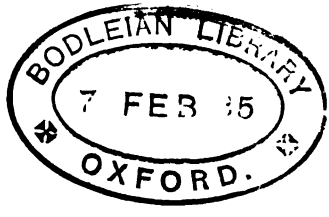

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